

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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SHANE BUCZEK, shane-christopher: buczek,  
third party intervenor as Grantor, Beneficiary of said  
Cestui Qui Trust ,

Petitioner,

-v-

**DECISION and ORDER**  
10-CV-383S

CONSTRUCTIVE STATUTORY TRUST,  
UNITED STATES MARSHALS, UNITED STATES  
PROBATION, UNITED STATES OF AMERICA,  
DONALD DONAHUE, JOHN CLARK,  
BRYAN MATTHEWS, JOSEPH GIACOBBE,  
ERIC HOLDER, BEHAVIORAL INTERVENTIONS, B.I.,

Respondents.

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Petitioner, Shane Buczek, who is currently awaiting sentencing in this Court following a plea of guilty to one count of Criminal Contempt (18 U.S.C. § 401(3)), *United States v. Buczek*, 09-CR-0141S, has filed a Petition and Amended Petition for a Writ of Habeas Corpus, pursuant to 28 U.S.C. § 2241, challenging, *inter alia*, the Court's jurisdiction over the underlying criminal proceedings and the conditions of his release.<sup>1</sup> Petitioner has also filed a Motion for Judgment on the Pleadings (Docket No. 3), a Motion to Take Judicial Notice of the Determination by the DOJ that Title 18 (1948) is Unconstitutional and of the Fair Warning Doctrine (Docket No. 4), and Motion/Petition for Determination of a Question of Jurisdiction (Docket No. 5).

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<sup>1</sup>Buczek has filed two similar petitions that involve the two other criminal proceedings pending against him in this Court, *United States of America v. Buczek*, 09-CR-0121S, and *United States of America v. Buczek*, 08-CR-0054S. Those two petitions will be addressed in separate orders. *Buczek v. Constructive Statutory Trust*, 10-CV-0382S and *Buczek v. Constructive Statutory Trust*, 10-CV-0384S.

IT HEREBY IS ORDERED as follows:

1. Respondents shall file an **answer** and **memorandum of law** with the Clerk of Court (and also serve a copy of each upon petitioner) no later than **November 15, 2010**. The answer shall respond to the allegations of the petition and amended petition and also respond to the Motions filed by petitioner. The memorandum of law shall address each of the issues raised in the petition and include citations of relevant supporting authority.

Petitioner shall have twenty (20) days upon receipt of the answer to file a written response to the answer and memorandum of law.

Within twenty (20) days of the date this order is filed with the Clerk of Court, respondents may file a motion for a more definite statement or a motion to dismiss the application, accompanied by appropriate exhibits which demonstrate that an answer to the application is unnecessary. The timely filing of such motion shall extend the time for filing an answer for fourteen (14) days, but the failure of the Court to act upon the motion within that time shall not further extend the time for filing an answer.

2. The Clerk of Court shall serve a copy of the petition and amended petition, together with a copy of this order, by certified mail, upon respondents and upon United States Attorney, Western District of New York, 138 Delaware Avenue, Buffalo, New York 14202.

**PETITIONER MUST FORWARD A COPY OF ALL FUTURE PAPERS AND  
CORRESPONDENCE TO THE ATTORNEY APPEARING FOR THE RESPONDENT.**

SO ORDERED.

Dated:       October 6, 2010  
                  Buffalo, New York

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s/William M. Skretny  
**WILLIAM M. SKRETNY**  
Chief Judge  
United States District Court